

Kerala Gazette No. 3 dated 17th January 2012.

PART I



GOVERNMENT OF KERALA

Abstract

ENVIRONMENT (PROTECTION) ACT, 1986—PRIOR ENVIRONMENT CLEARANCE UNDER
EIA NOTIFICATION 2006—COMMENCEMENT OF WORK/ACTIVITIES WITHOUT
OBTAINING CLEARANCE—ACTION AGAINST PROPONENTS—ORDERS ISSUED

ENVIRONMENT (B) DEPARTMENT

G. O. (Ms.) No. 10/2011/Envt.

Dated, Thiruvananthapuram, 24th December 2011.

- Read:*—1. Letter No. 21-292/2008/1A.III dated 25-8-2008 from the Director, Ministry of Environment & Forests, GoI.
2. Government Letter No. 14041/A2/08/Envt. dated 25-8-2011 addressed to the Chairman, Kerala State Pollution Control Board.
3. Letter No. J-11011/109/2010-IA-II (I) dated 1-11-2011 from the Ministry of Environment & Forests, GoI.

ORDER

Consequent upon repeated directives of the Ministry of Environment, Government of India that project proponents of applications received by the Ministry for prior environmental clearance under the EIA Notification 2006, use to start the construction activities without waiting for the decision of the Government of India on their applications and getting clearance as required by law, and hence to take action under the Environment (Protection) Act 1986, Government have issued instructions to the Kerala State Pollution Control Board vide the letter second cited that in all such cases of violation of law, legal action shall be taken without fail.

2. In the letter last cited, the Ministry of Environment and Forests has informed that a state public undertaking, application of which for prior environmental clearance for a major project, was pending under instructions of the Ministry for revision of the draft EIA report incorporating the issues raised at the public hearing, informed the Expert, Appraisal Committee for the project, at its next hearing that construction activities have already been undertaken without the clearance. Ministry has directed to proceed against the unit invoking provisions of the Environment (Protection) Act.

3. The Environment (Protection) Act 1986 contains very stringent penalties for contravention of the provision of the Act, the Rules, Orders and Directions thereunder. The penalty is imprisonment extending up to 5 years with fine which may extend one lakh rupees or with both. In the case of companies, every person who at the time the offence was committed, was directly in charge of, and was responsible for the conduct for the business of the company, as well as the company shall be deemed to be guilty of the offence and liable to be proceeded against and punished accordingly.

4. In view of the increasing instances of violation of the requirement of prior environmental clearance, Government hereby notify for information and compliance of all P. S. Us and other proponents, of the above consequences of violation, evasion, travesty or any kind of non-observance of the provision of the notification, order or direction for the time being in force governing the terms and conditions on prior environmental clearance under the Environment (Protection) Act 1986 or the Rules thereunder; for their proposed projects/activities impinging on environment in any manner. In all such defaults the power under section 19 of the Environment (Protection) Act could be invoked against the unit, for legal actions. The Project proponents are therefore cautioned against violation of the provisions of the notification and advised to ensure prior EIA clearance in all required cases before construction works/activities are commenced, to avoid post facto legal actions.

By order of the Governor,

JAMES VARGHESE,

Principal Secretary to Government.

To,

1. The Chief Executives of all Public Sector Undertakings.
 2. Secretary to Government of India, Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi-110 003.
 3. The Chairman, Kerala State Pollution Control Board.
 4. The Chairman, Kerala State Biodiversity Board.
 5. The Chairman, Kerala Coastal Zone Regulation Authority, Sasthra Bhavan, Pattom, Thiruvananthapuram-4.
 6. The Executive Director, Kerala Bureau of Industrial Promotion, Kurup's Lane, Sasthamangalam, Thiruvananthapuram-695 010.
 7. Director, Kerala Forest Research Institutes, Peechi, Thrissur-680 653.
 8. Managing Director, KINFRA, Kinfra House, Thiruvananthapuram-10.
 9. Executive Vice President, Kerala State Council for Science, Technology and Environment, Sasthra Bhavan, Pattom, Thiruvananthapuram-4.
 10. Project Director, Kerala Sustainable Urban Development Project, Trans Towers, Vazhuthacaud, Thiruvananthapuram-14.
 11. Director, Bureau of Public Enterprises.
 12. Industries Department.
 13. Local Self Government Department.
 14. Science and Technology Department.
 15. Public Relations Department.
 16. SF/OC.
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